IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.778 OF 2005
IN
NOTICE OF MOTION NO.2328 OF 2005
IN
SUIT NO.2143 OF 2005

Surendra Poojari ... Appellant

versus

Candes & Kunder Construction
and others ... Respondents

Ms.Rajani Iyer with Mr.A.P.Rai i/by Jose George for appellant.
Mr.D.H.Mehta with Mr.G.S.Bhatt for respondents 1 and 2.
Mr.P.K.Samdani i/by Mr.H.S.S.Murthy for respondent no.3.
Mr.A.Narula with Mr.A.Dasgupta i/by M/s.Jhangiani Narula & Associates for respondent no.4.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 19th September 2005

PC :

1. Heard learned counsel for appellant and respondents. By this appeal the appellant is challenging the order dated 23rd August 2005 which is an ad-interim order granted by the learned Single Judge without even affidavit in reply being filed on behalf of the appellant. Learned counsel for the appellant states that the affidavit in reply was ready on 23rd August 2005,

however, the same was not taken on record.

2. Having regard to the facts and circumstances of the case, it will be just and proper to request the learned Single Judge to expeditiously dispose off the Notice of Motion No.2328 of 2005. The appellant is permitted to file affidavit in reply within a week from today. Learned counsel for the appellant, on instructions from the appellant who is personally present in the Court, states that the appellant is in possession of the said property and the appellant has not created any third party rights and he undertakes not to create any third party rights with regard to the aforesaid property. Under these circumstances, the ad-interim order granted by the learned Single Judge in terms of prayer clause (c) shall continue. However, the order of appointment of Court Receiver granted by the learned Single Judge in paras 2 and 3 shall stand set aside. Liberty to both the parties to move the learned Single Judge for fixing early date of hearing. Appeal stands disposed off.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)